

# City of Milpitas



## City Council

Jose Esteves, Mayor  
Armando Gomez, Vice Mayor  
Robert Livengood, Councilmember  
Althea Polanski, Councilmember  
Debbie Giordano, Councilmember

## City Council Agenda

**MAY 16, 2006**  
**Milpitas City Hall**  
**455 E. Calaveras Blvd.**  
**Milpitas, CA 95035**  
**7:00 P.M. (Public Business)**

### GENERAL ORDER OF BUSINESS

- |                        |  |                                    |
|------------------------|--|------------------------------------|
| • Call to Order        | • Announcements                        | • Reports of Officers, Commissions |
| • Closed Session       | • Announcement of Conflict of Interest | • New Business                     |
| • Invocation           | • Approval of Agenda                   | • Ordinances                       |
| • Pledge of Allegiance | • Consent Calendar                     | • Resolutions                      |
| • Approval of Minutes  | • Public Hearings                      | • Bids and Contracts               |
| • Schedule of Meetings | • Unfinished Business                  | • Claims and Demands               |
| • Presentations        | • Redevelopment Agency Meeting         | • Adjournment                      |
| • Public Forum         |  |                                    |

### CONSENT CALENDAR

Items on the consent calendar are identified by an asterisk in front of the item number. These are considered to be routine items and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember, staff member, or citizen so requests, then the item may be removed from the consent calendar by a Councilmember and considered in its normal sequence on the agenda.

### PUBLIC FORUM

Members of the audience are invited to address the Council under "Public Forum" on any subject not scheduled on this agenda. Please come to the podium, state your name and city of residence for the Clerk's record, and limit remarks to three minutes. Please note that the provisions of CA Government Code Section 54954.2(b) prohibit the City Council from taking any immediate action on an item that does not appear on the agenda, unless it meets stringent requirements. The City Council may instruct the City Manager to agendaize the matter for a future meeting.

### ADDRESSING THE CITY COUNCIL

Public comment is allowed on any item on the agenda during consideration of the matter and prior to action by the Council. Please come to the podium, state your name, and City of residence for the City Clerk's record. When addressing the City Council, try to keep your presentations brief and not repeat what other speakers may have already said. Your cooperation will be greatly appreciated. For public hearings, speakers may come forward once the hearing has been opened by the Mayor. Once a public hearing is closed, no more testimony will be allowed unless requested by the Council.

### REDEVELOPMENT AGENCY

The City Council serves as the Milpitas Redevelopment Agency. When there is business for the Redevelopment Agency to consider, the City Council will recess and convene as the Redevelopment Agency. The Redevelopment Agency usually convenes jointly with the City Council.

### AGENDA INFORMATION

Copies of the agenda and supplemental documents relating to specific agenda items are available for review (there may be a charge for copies) at City Hall on Friday preceding a regularly scheduled City Council meeting (1st and 3rd Tuesdays). A copy of the agenda and supplemental documents are also available for review at the Milpitas Library. Meeting minutes printed in large type will be provided upon request by the Clerk's Office for the visually impaired. Agenda information is also available by calling the "Agenda Hotline" at 586-3010. The regular meetings of the Milpitas City Council are broadcast live on the local cable television Channel 15, and webcast at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov). Replays may be seen on Channel 15 at 12:00 noon and 8:00 p.m. the day following the meeting and any time on the City's online video archive. Additional information may be obtained from the City Clerk, City of Milpitas, 455 E. Calaveras Blvd., Milpitas, CA 95035, (408) 586-3001.

Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

***Your interest and participation in the conduct of your City's business is encouraged and appreciated.***

*In compliance with the Americans with Disabilities Act, individuals requiring accommodation for this meeting should notify the City Clerk prior to the meeting at (408) 586-3001, TDD (408) 586-3013.  
Hearing assistance devices are available for use in the Council Chamber during the meeting.*



**MILPITAS CITY COUNCIL MEETING AGENDA  
MAY 16, 2006**

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**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)  
455 E. CALAVERAS BOULEVARD**

**SUMMARY OF CONTENTS**

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
  - 1) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
(Pursuant to California Government Code Section 54957.6)  
City Negotiator: Carmen Valdez  
Employee Organizations: Milpitas Professional and Technical Group (ProTech), and  
Laborers' International Union of North America (LIUNA)  
Under Negotiation: Wages, Hours, Benefits, Working Conditions
  - 2) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
(Pursuant to California Government Code Section 54956.9(a))  
City of Milpitas v. Turner Construction et al., Santa Clara County  
Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV008400
  - 3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
(Pursuant to Government Code Section 54956(a))  
Yuan-Miu vs. City of Milpitas, #OAK0321412
  - 4) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
(Pursuant to Government Code Section 54956(a))  
Nichols vs. City of Milpitas, #SJ00233154
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Vice Mayor Gomez)**
- VI. APPROVAL OF MINUTES (May 2, 2006)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATIONS**

Proclamations:

  - Memorial Day - May 29, 2006
  - VFW Buddy Poppy Month
  - Public Works Week - May 21 to 27, 2006
- IX. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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**X. ANNOUNCEMENTS**

**XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**

**XII. APPROVAL OF AGENDA**

**XIII. CONSENT CALENDAR (Items with Asterisks)**

**XIV. PUBLIC HEARING**

- 1. Disposition and Development Agreement and a Garage Site Ground Lease for the County Health Center at North Main Street (Staff Contact: Diana Whitecar, 586-3059)**

**XV. UNFINISHED BUSINESS**

- 2. Conceptually Approve the Revised Budget Guidelines and Fiscal Policies (Staff Contact: Emma Karlen, 586-3145)**
- 3. Waive First Reading Beyond Title and Introduce Ordinance No. 197.9, Approving the Reorganization of Public Works and Engineering by Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code Related to City Departments (Staff Contact: Emma Karlen, 586-3145)**
- 4. Approve the Reclassification of Office Assistant II and Cashier to Fiscal Assistant I/II in the Finance Department (Staff Contact: Emma Karlen, 586-3145)**

**XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor/Chair**

**RA2. Roll Call**

**RA3. Approval of Minutes (May 2, 2006)**

**RA4. Approval of Agenda and Consent Calendar**

**RA5. Review 2006-2011 Capital Improvement Program (CIP) and Approve Budget for 2006-2007**

**RA6. Review and Consider the Proposed 2005-2010 Redevelopment Implementation Plan and Set a Public Hearing Date for Consideration of the Final 2005-2010 Implementation Plan (Staff Contact: Diana Whitecar, 586-3059)**

**\* RA7. Adopt Resolution Granting Initial Acceptance: Sports Center Pools, Project No. 8180 (Staff Contact Greg Armendariz, 586-3317)**

**RA8. Agency Adjournment**

**XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

- \* 5. Approve Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)
- 6. Presentation on Employees' Salaries (Contact: Councilmember Livengood, 586-3027)

**XVIII. NEW BUSINESS**

- \* 7. Authorize the Purchasing Agent to Dispose of Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)
- \* 8. Accept Single-Stream Recycle Cart Option Offer From Allied Waste Services (Staff Contact: Darryl Wong, 586-3345)

**XIX. ORDINANCE**

- \* 9. Waive Second Reading and Adopt Ordinance 48.17 Amending Title V, Chapter 200, Section 3.20 of the Milpitas Municipal Code on Solid Waste Management (Staff Contact: Darryl Wong, 586-3345)

**XX. RESOLUTIONS**

- \* 10. Adopt Resolution Approving Memorandum of Understanding with the Milpitas Police Officers Association (MPOA) (Staff Contact: Carmen Valdez, 586-3086)
- \* 11. Adopt Resolution Directing Preparation of the Annual Engineer's Report, Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9474 (Staff Contact: Mehdi Khaila, 586-3328)
- \* 12. Adopt Resolution Directing Preparation of the Annual Engineer's Report, Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9489 (Staff Contact: Mehdi Khaila, 586-3328)
- \* 13. Adopt Resolution Amending the Fee Schedule to Include a 2.5% Permitting Automation Fee Effective July 1, 2006 (Staff Contact: Bill Marion, 586-2701)

**XXI. BIDS AND CONTRACTS**

- \* 14. Approve Contract Amendment with MBIA Muniservices Company for Financial Consultant Services (Staff Contact: Emma Karlen, 586-3145)
- \* 15. Approve Contract with CSG Consultants, Inc. for Fire Plan Check (Staff Contact: Patricia Joki, 586-3370)
- \* 16. Authorize the City Manager to Amend Funding Agreement with Santa Clara Valley Transportation Authority for Coyote Creek Trail, Reach 1, Project No. 4206 (Staff Contact: Greg Armendariz, 586-3317)
- \* 17. Authorize City Manager to Approve Ninth Amendment to In-Kind Services Agreement with City of San Jose For Recycled Water Services (Staff Contact: Darryl Wong, 586-3345)
- \* 18. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: 2006 Slurry Seal Project, Project No. 4229 (Staff Contact: Doug De Vries, 586-3313)

- \* 19. Award Construction Contract; Approve Amendment To Consultant Agreement And Approve Budget Appropriation: Hetch Hetchy Landscape Renovation, Project No. 5053 (Staff Contact: Greg Armendariz, 586-3317)
- \* 20. Award Construction Contract: Sewer Deficiency and Structural Correction Program – Pipe Bursting/Reaming, Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)

XXII. CLAIMS AND DEMANDS (NONE)

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, JUNE 6, 2006 AT 7:00 P.M.**

**SPECIAL CITY COUNCIL MEETING  
TUESDAY, JUNE 13, 2006 AT 6:00 P.M.**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035 E-mail: [rpioroda@ci.milpitas.ca.gov](mailto:rpioroda@ci.milpitas.ca.gov) / Fax: 408-586-3030 / Phone: 408-586-3040

*A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.*

**BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:

*Planning Commission (alternate)  
Mobile Home Park Rental Review Board (alternate)  
Recycling and Source Reduction Advisory Commission (alternate)*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

## **AGENDA REPORTS**

### **XIV. PUBLIC HEARING**

1. **Disposition and Development Agreement and a Garage Site Ground Lease for the County Health Center at North Main Street (Staff Contact: Diana Whitecar, 586-3059)**

**Recommendation:** The public hearing is to be continued to a future meeting date, at the request of the County. The DDA and Ground Lease are available for inspection at the City Clerk's Office, pursuant to State Health and Safety Code §33433.

### **XV. UNFINISHED BUSINESS**

2. **Conceptually Approve the Revised Budget Guidelines and Fiscal Policies (Staff Contact: Emma Karlen, 586-3145)**

**Recommendation:** Conceptually approve revised budget guidelines and fiscal policies.

3. **Waive First Reading Beyond Title and Introduce Ordinance No. 197.9, Approving the Reorganization of Public Works and Engineering by Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code Related to City Departments (Staff Contact: Emma Karlen, 586-3145)**

**Recommendation:**

1. Waive first reading beyond title of the Ordinance
2. Introduce Ordinance 197.9

4. **Approve the Reclassification of Office Assistant II and Cashier to Fiscal Assistant I/II in the Finance Department (Staff Contact: Emma Karlen, 586-3145)**

**Recommendation:** Approve reclassification of Office Assistant II and Cashier to Fiscal Assistant I/II In Finance Department.

### **XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor/Chair**

**RA2. Roll Call**

**RA3. Approval of Minutes (May 2, 2006)**

**RA4. Approval of Agenda and Consent Calendar**

**RA5. Review 2006-2011 Capital Improvement Program (CIP) and Approve Budget for 2006-2007 (Staff Contact: Greg Armendariz, 586-3317)**

**Recommendation:**

1. Review CIP for 2006-2011
2. Approve CIP Budget for 2006-2007

**RA6. Review and Consider the Proposed 2005-2010 Redevelopment Implementation Plan and Set a Public Hearing Date for Consideration of the Final 2005-2010 Implementation Plan (Staff Contact: Diana Whitecar, 586-3059)**

**Background:** California Community Redevelopment Law (CRL) requires redevelopment agencies to adopt an Implementation Plan every five years. The purpose of the Implementation

Plan is to set goals and objectives that will guide efforts to eliminate blight over the next five years and estimate the revenues and expenditures anticipated by the Agency in the five year period. The Plan contains an affordable housing section to help the Redevelopment Agency monitor progress in meeting the community's affordable housing needs. The Implementation Plan also provides an overview of accomplishments of the previous five-year period.

Staff made an initial presentation on the proposed Implementation Plan (Exhibit A) at the March 7<sup>th</sup> meeting. At that time, Council requested additional time for review, asking that the item be heard again on April 18<sup>th</sup>.

The Milpitas Redevelopment Agency adopted its first Five Year Implementation Plan in 1994 when CRL was amended to require Implementation Plans. A new Five Year Implementation Plan was approved in 2000 and it is now time to adopt the third Milpitas Redevelopment Agency Five Year Implementation Plan. In addition to adopting the Five Year Plan, CRL requires that a mid-cycle public hearing be held in order to better evaluate the success of the local redevelopment program.

Based on the assumptions of 6% growth for FY 2006-07, 5% growth for FY 2007-08 and 4% growth for the following years, it is anticipated over the next five years that the Agency will receive a total of \$152 million in property tax revenues, known as tax increments. Of that, 20% or \$30 million will be set aside for Low and Moderate Housing. The remaining tax increment funds of \$122 million, combined with interest income over the five years, provides the Agency nearly \$130 million for its 80% programs and operations. Table B in the proposed Implementation Plan illustrates the revenue and expenditure projections in more detail.

While this tax increment growth is positive, projected annual expenditures for operations, bond debt payments and legislated pass-throughs to other taxing entities and funding the approved 2005-2010 Capital Improvement Program requires the Agency utilize all of the existing its existing fund balance and bond proceeds. Based on these projections, at the end of the five year period, the 80% fund will have used its reserves and have a \$1.0 million shortfall.

The 20% Housing Set Aside Program will likely end the five-year period with approximately \$18 million in its fund balance. However, it is incumbent upon staff to recommend use of these funds, as accumulation of Housing Set Aside funds is inconsistent with the goals of CRL.

Over the last five years, well over half of the 80% redevelopment funds have been used to upgrade the City's storm drain, sewer and water systems, improve local streets and traffic signals as well as substantially contributing to the construction of critical freeway improvements. The remaining redevelopment funds were used to make substantial and critical community and parks improvements. Staff will give a brief overview of these accomplishments at the meeting.

**Recommendation:** Provide direction to staff in the preparation of the final 2005-2010 Redevelopment Implementation Plan and schedule a date for the public hearing for the Plan.

**\* RA7. Adopt Resolution Granting Initial Acceptance: Sports Center Pools, Project No. 8180 (Staff Contact Greg Armendariz, 586-3317)**

**Background:** City Council, at its January 3, 2006 meeting, awarded the construction contract to ROW Custom Enterprises, Inc. for resurfacing of the Sports Center swimming pools. The construction has been completed, the work has been satisfactorily inspected by City Staff and is ready for an initial acceptance. The contractor's faithful performance bond may be reduced to \$20,136.40, 10% of the contract amount.

**Recommendation:** Adopt a Resolution granting initial acceptance of Project No. 8180, subject to the one-year warranty period and reduction of the faithful performance bond to \$20,136.40.

**RA8. Agency Adjournment**

## **XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

### **City Council**

- \* **5. Approve Mayor's Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends the following Milpitas residents be appointed or re-appointed to the Commissions as noted below.

**Arts Commission:**

Appoint (current Alternate #1) Juniel-Butler to a vacancy that expires October 2008.

Appoint (current Alternate #2) Archana Aragon to the Alternate #1 seat that expires October 2006.

Appoint Richard Tsuei to the Alternate #2 seat that expires October 2007.

**Bicycle Transportation Advisory Commission:**

Appoint (current Alternate #2) Cheryl Bunnell to the Alternate #1 seat that expires August 2006.

Appoint Wesley Roediger to the Alternate #2 seat that expires August 2007.

**Community Advisory Commission:**

Appoint (current Alternate #4) Heidi Hai T. Pham to Alternate #3 seat that expires January 2008.

Appoint Chinedu Nwobi to the Alternate #4 seat that expires January 2008.

**Economic Development Commission:**

Re-appoint the following four Commissioners to seats that will expire in April 2009:

Ray Maglalang

Donald Peoples

Frank DeSmidt

Charlene Tsao

Re-appoint Alternate #2 Zeya Mohsin to a term that expires in April 2008.

**Library Advisory Commission:**

Re-appoint Marilyn Hay to a term that expires in June 2008.

Re-appoint Yu-Lan Chou to a term that expires in June 2008.

**Parks, Recreation and Cultural Resources Commission:**

Re-appoint Steve Munzel to a term that expires in June 2009.

**Recycling and Source Reduction Advisory Commission:**

Appoint current Alternate #1 Eulalio Mercado to a vacancy that expires October 2008.

Appoint current Alternate #2 Hong Chen to the Alternate #1 seat that expires October 2007.

**Recommendation:** Move to approve the Mayor's recommended Commission appointments.

- 6. Presentation on Employees' Salaries (Contact: Councilmember Livengood, 586-3027)**

**Recommendation:** Hear report of Councilmember Livengood.

## **XVIII. NEW BUSINESS**

- \* **7. Authorize the Purchasing Agent to Dispose of Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**



**Background:** Two City vehicles have reached the end of their useful lives. The cost to repair these vehicles exceeds their value and they have been removed from service. Nation Wide Auction estimates the value of these units at auction to be as follows:

- 1996 Ford Crown Vic license # 024949, estimated value: \$1,500
- 1983 Ford F8000 dump truck license # 454850, estimated value: \$5,000

Staff requests authorization to dispose of the vehicles at auction pursuant to section I-2-8.03 of the Milpitas Municipal Code, "Disposal of More Than \$1,000."

**Recommendation:** Approve the request to dispose of the two vehicles at auction.

\* **8. Accept Single-Stream Recycle Cart Option Offer From Allied Waste Services (Staff Contact: Darryl Wong, 586-3345)**

**Background:** The single-stream recycling program began on March 13, 2006. The program involved conversion from a three-tub system to a single, wheeled cart. This improves service by enabling recyclables to be collected in one container without the need to separate each item by material type. As part of the program, recycling carts were provided in size options of 96 or 64-gallon.

Since the program's implementation, there have been some inquiries from customers in high-density residential and mobile home areas and senior-rate households for smaller-sized containers that could be handled and stored more easily. Allied Waste Services (Allied) has offered to make available upon request at no additional cost to the city, a limited number of 32-gallon carts to address these inquiries.

Staff recommends approval of the distribution of 32-gallon carts for residents in high-density developments, mobile home parks and senior-rate customers, upon request.

**Recommendation:** Accept Allied's offer of 32-gallon wheeled recycling carts for use on a customer-requested basis at high-density developments and mobile home parks and at senior-rate residential units.

**XIX. ORDINANCE**

\* **9. Waive Second Reading and Adopt Ordinance 48.17 Amending Title V, Chapter 200, Section 3.20 of the Milpitas Municipal Code Solid Waste Management (Staff Contact: Darryl Wong, 586-3345)**

**Background:** Ordinance No. 48.17 was introduced at the May 2, 2006 City Council meeting. The proposed ordinance requires residents who share common domestic water meters to have the same party who pays for water service also pay for solid waste service, thereby simplifying City bill tracking and collection.

**Recommendation:** Waive second reading and adopt Ordinance No. 48.17.

**XX. RESOLUTIONS**

\* **10. Adopt Resolution Approving Memorandum of Understanding with the Milpitas Police Officers Association (MPOA) (Staff Contact: Carmen Valdez, 586-3086)**

**Background:** The most recent Memorandum of Understanding (MOU) with the Milpitas Police Officers Association (MPOA) expired on June 30, 2005. City representatives and representatives from MPOA met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of July 1,

2005 to December 31, 2007. A copy of the MOU is included in the Council's agenda packet for review.

**Recommendation:** Adopt a Resolution approving the Memorandum of Understanding with the Milpitas Police Officers Association (MPOA) covering the period of July 1, 2005 through December 31, 2007.

- \* 11. **Adopt Resolution Directing Preparation of the Annual Engineer's Report, Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9474 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** Landscaping and Lighting Maintenance Assessment District No. 95-1 (LMD 95-1), provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway landscaping on Ranch Drive.

The Landscaping and Lighting Act of 1972, requires adoption of the subject resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 20, 2006). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

**Recommendation:** Adopt Resolution directing the preparation of the Annual Engineer's Report for the LMD 95-1.

- \* 12. **Adopt Resolution Directing Preparation of the Annual Engineer's Report: Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9489 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1 provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. The Landscaping and Lighting Act of 1972, requires adoption of the subject resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 20, 2006). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

**Recommendation:** Adopt Resolution directing the preparation of the Annual Engineer's Report for the LMD 98-1.

- \* 13. **Adopt Resolution Amending the Fee Schedule to include a 2.5% Permitting Automation Fee Effective July 1, 2006 (Staff Contact: Bill Marion, 586-2701)**

**Background:** On May 2, 2006, the City Council approved the addition of a 2.5% Permitting Automation fee to recover the cost of an online Permitting and Development System. This fee would apply to the following permits and fees, and be effective July 1, 2006:

- Building Permit
- Fire Safety Construction Permit
- Engineering and Planning Services
- Planning Fees
- Traffic Impact Fees
- Park in-lieu Fees
- Water Line Extension Connection Fees
- Sewer Connection Fees

- Treatment Plant Fees
- Storm Drain Connection Fees

**Recommendation:** Adopt a Resolution amending the Fee Schedule to include a 2.5% Permitting Automation Fee effective July 1, 2006.

## XXI. BIDS AND CONTRACTS

### \* 14. **Approve Contract Amendment with MBIA Muniservices Company for Financial Consultant Services (Staff Contact: Emma Karlen, 586-3145)**

**Background:** MBIA MuniServices Company (MMC) was awarded the contract for financial consultant services in March 1996. The current contract was renewed in June 2003 and is due to expire on June 30, 2006. MMC proposes to continue providing the same services, which include quarterly sales tax analysis and reporting, sales tax audits, and property tax audits by extending the contract. All the other contract terms will remain unchanged. The fee structure is that the City will pay for the quarterly sales tax analysis and reporting at \$1,081.60 per quarter. The quarterly payments will be adjusted annually, at the rate of 4% increase or the Consumer Price Index, whichever is higher. All other audit services are compensated from a percentage of the revenues recovered. The proposed amendment is for three years, unless otherwise extended. MMC has provided valuable services and information to the City in sales tax analysis and reporting. Their sales tax audits have assisted the City to recover more than \$8 million to date. Staff recommends approval of the contract amendment.

**Recommendation:** Approve the contract amendment with MBIA MuniServices Company, subject to approval as to form by the City Attorney.

### \* 15. **Approve Budget Request and Contract with CSG Consultants, Inc. For Fire Plan Check (Staff Contact: Patricia Joki, 586-3370)**

**Background:** KB Home has requested a dedicated fire inspector to perform fire inspections at the “Elmwood” and “Terra Serena” project sites. KB Home has agreed to pay for this service at the Fire Department’s standard hourly rate. The amount is estimated to be \$24,960 for six months, which includes inspection and administrative costs. To accommodate this request, it is necessary to contract for limited plan review services in order to “free-up” staff workload.

Fire staff request the Department’s budget be increased by \$20,400 to be used to contract for plan check services. If requested, Fire Dept. staff will work with KB Home to continue this service past the six months timeframe. KB Home is in agreement with this procedure.

**Recommendation:** Approve budget request increase of \$20,400, to pay for contract services between the City and CSG Consultants, Inc., subject to review by the City Attorney.

### \* 16. **Authorize the City Manager to Amend Funding Agreement with Santa Clara Valley Transportation Authority for Coyote Creek Trail, Reach 1, Project No. 4206 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** Coyote Creek Trail, Reach 1 is included in the current Capital Improvement Program. The project provides a pedestrian and bicycle trail along the east bank of Coyote Creek, that extends from North McCarthy Boulevard at Coyote Creek to the south side of Ranch Drive. The project received funding from a variety of outside grants, including a \$95,000 Transportation Fund for Clean Air (TFCA) grant administered by the Santa Clara Valley Transportation Authority (VTA). TFCA grants are awarded to projects that result in a clean air benefit.

Project 4213, a Pedestrian-Bicycle Overcrossing alignment alternatives study, had previously been awarded \$250,000 in TFCA funding from VTA. Last year, the overcrossing study results

concluded that Project 4213 was not feasible. City staff notified VTA of cancellation of the overcrossing project. Upon closeout of the reimbursement process for Project 4213, TFCA funds in the amount of \$95,475 remained unspent. VTA has endorsed transferring the unspent \$95,475 to Coyote Creek Trail Reach 1, Project 4206, and secured approval to do so. Coyote Creek Trail is proven eligible to receive additional TFCA funding, and is an active project within VTA's approved Bicycle Expenditure Program.

Staff supports this funding transfer. Staff recommends that the City Manager be authorized to execute an amendment to the existing TFCA Funding Agreement between VTA and the City. The amendment will authorize the City to accept a grant increase of \$95,475 for Coyote Creek Trail, Reach 1, which will bring the new TFCA funding total for this project to \$190,475. Funding will be used to reimburse the City for expenses incurred to implement the project.

**Recommendation:** Authorize the City Manager to execute an amendment to the Transportation Fund for Clean Air funding agreement between the Santa Clara Valley Transportation Authority and the City for Coyote Creek Trail Reach 1, Project No. 4206, subject to approval as to form by the City Attorney.

**\* 17. Authorize City Manager to Approve Ninth Amendment to In-Kind Services Agreement with City of San Jose For Recycled Water Services (Staff Contact: Darryl Wong, 586-3345)**

**Background:** The Cities of Milpitas and San Jose entered into an agreement in 1995 that provided funding to Milpitas for coordination, recycled water pipeline construction, and customer conversion to recycled water within Milpitas. Over the last ten years there have been several amendments to modify contract terms as needed. The agreement expires on June 30, 2006. The work has been completed and the only remaining item is resolution of a construction claim by the contractor. The City Attorney has noted that additional time is needed to resolve the construction claim. This 9<sup>th</sup> amendment will extend the agreement term for one year, to June 30, 2007. There is no change to the contract scope of work or amount.

**Recommendation:** Authorize the City Manager to approve the 9<sup>th</sup> Amendment to the In-Kind Services Agreement with the City of San Jose.

**\* 18. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: 2006 Slurry Seal Project, Project No. 4229 (Staff Contact: Doug De Vries, 586-3313)**

**Background:** Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project consists of placing slurry seal on Kizer Street, Rivera Street, Heflin Street, Tice Drive, Park View Drive, Park Height Drive, Park Hill Drive, Park Grove Drive, Mattos Drive, and Dolores Drive. The Engineers' Estimate for the work is approximately \$140,000 and funds are available in the project budget. Project schedule anticipates award for construction in June 2006. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

**Recommendations:**

1. Approve plans and specifications
2. Authorize advertising project for bid proposals.

**\* 19. Award Construction Contract, Approve Amendment to Consultant Agreement and Approve Budget Appropriation: Hetch Hetchy Landscape Renovation, Project No. 5053 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The project provides a new asphalt walkway including lawn and irrigation on Hetch-Hetchy right-of-way from Washington Drive to Coelho Street. Five sealed bid proposals were opened on Wednesday, April 19, 2006, ranging from \$142,263 to \$223,000. The lowest responsive bid of \$142,263, was from RMT Landscape Contractors, Inc. The Engineer's estimate

for the work was \$180,000. Staff recommends the inclusion of alternate work items (pavement reinforcing fabric and header board) to the base work for a total contract amount of \$153,853. Construction support services from the consultant are required. The scope of services has been determined and an amendment to the consultant agreement has been prepared. The amendment amount for the construction support tasks is \$5,255, which is reasonable for the services provided. A budget appropriation in the amount of \$100,000 for contingency, construction, inspection and administration of the project from the Park Fund, is required to award the project as previously recommended in the final 2005-2010 Capital Improvement Program. Funds are available from the Park Fund.

**Recommendations:**

1. Appropriate \$100,000 from the Park Fund for Project No. 5053
2. Authorize the City Manager to execute the amendment to consultant agreement, subject to approval by the City Attorney as to form.
3. Award the construction contract to RMT Landscape Contractors, Inc., in the amount of \$153,853.00, subject to approval by the City Attorney as to form.

**\* 20. Award Construction Contract: Sewer Deficiency and Structural Correction Program – Pipe Bursting/Reaming, Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On September 6, 2005, the City Council authorized the rejection of all bids and re-advertisement for bid proposals in Spring 2006. This project provides for the replacement of sewer lines from 750 Pacheco Drive to 751 Valencia Drive, due to structural deficiencies and differential settlement as confirmed by the City's video inspection program. The Engineer's Estimate was \$148,000.

Four sealed bid proposals were opened on May 4, 2006, ranging from \$129,540, to \$150,327. There are sufficient funds in the project budget to award this project. Staff recommends award of the construction contract to the lowest responsible bid in the amount of \$129,540 from Pacific Trenchless, Inc.

**Recommendation:** Award Construction Contract for Project No. 6073 to Pacific Trenchless, Inc. in the amount of \$129,540.

**XXII. CLAIMS AND DEMANDS (NONE)**

**XXIII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, JUNE 6, 2006 AT 7:00 P.M.**

**SPECIAL CITY COUNCIL MEETING  
TUESDAY, JUNE 13, 2006 AT 6:00 P.M.**